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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
-----x

3 UNITED STATES OF AMERICA,

4 v.

22 Cr 00352 (JSR)

5 ANTHONY MCGEE,

6  
7 Defendant.

8 Bail Application  
-----x

9  
10 New York, N.Y.  
11 August 22, 2022  
12 3:05 p.m.

13 Before:

14 HON. JED S. RAKOFF,  
15 District Judge

16 APPEARANCES

17 DAMIAN WILLIAMS

United States Attorney for the  
Southern District of New York

18 BY: RUSHMI BHASKARAN

Assistant United States Attorney

19 RUHNKE & BARRETT

Attorney for Defendant

20 BY: JEAN DESALES BARRETT

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1                   THE COURT: Good afternoon.

2                   All right. So we're here on a bail application for  
3 Defendant McGee.

4                   I'll ask each counsel, when they talk, to go to the  
5 rostrum because you can take off your mask there and that makes  
6 it much easier to understand you. We'll begin with counsel for  
7 the defendant.

8                   MS. BARRETT: Yes, your Honor.

9                   Your Honor, I first would like to identify some of the  
10 people who have come today in support of Mr. McGee. His  
11 fiancée and future wife is here, Simone Ramirez. Next to her  
12 is Jaelynn Johnson, who is the goddaughter who wrote a very  
13 lovely letter. In the back of the room, the young child is his  
14 godson. There are other family members, other friends to  
15 support him. In addition to that, your Honor, Mr. Sonny  
16 Miranda who wrote a letter on behalf -- and he's affiliated  
17 with the Central Family Life Center -- your Honor, he is here.  
18 He has said that not only would he welcome Mr. McGee back to  
19 the program -- and he's happy to give your Honor some more  
20 information about the program -- in addition to that, he has a  
21 job offer, which is the third job offer that he has.

22                  There's Mr. Lopez. And then I didn't note in my  
23 memorandum that Mr. Morales wrote a letter. On page 15 of the  
24 letters, Mr. Morales says that he, as well, would have a  
25 position available for Mr. McGee if Mr. McGee were permitted to

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1 be free on bond.

2 THE COURT: I'm delighted to have all those folks  
3 here. Thank you very much for bringing them.

4 MS. BARRETT: Would you like to hear from Mr. Miranda  
5 about Mr. McGee's experience with his --

6 THE COURT: I think maybe at some point, but let's set  
7 the stage, so to speak.

8 MS. BARRETT: Sure.

9 Your Honor, my focus here is on the language of our  
10 Second Circuit that the Bail Reform Act presumes release and a  
11 small, very small, identifiable group of individuals should be  
12 incarcerated. I understand, and Mr. McGee understands that his  
13 criminal history is something that weighs against him in this  
14 particular situation. But I believe that all of the letters  
15 and the willingness of people to sign a bond for him -- six  
16 different people are willing to sign a bond -- all of those  
17 promises for work, the assurance of his probation officer from  
18 the City of New York, and the assurance from Mr. Miranda and  
19 the manager of the Central Family Life Center, all attesting to  
20 Mr. McGee's character and his change in his life.

21 THE COURT: Bear with me one second. I'll tell you  
22 why in a second.

23 (Pause)

24 THE COURT: The reason I interrupted, I don't think I  
25 ever saw the -- presumably, there was a pretrial officer's

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1 recommendation that was made to Magistrate Aaron when this case  
2 was first presented, but I don't think I've seen that.

3 Do either counsel happen to have a copy of that?

4 MS. BARRETT: We are not allowed to take them.

5 MS. BHASKARAN: Same, your Honor. The pretrial  
6 officer recommended detention.

7 THE COURT: Yes. But I would have liked to have seen  
8 what he had to say.

9 THE DEPUTY CLERK: I'm going to call the magistrate.  
10 Give me a second.

11 THE COURT: Go ahead. I'm sorry for the interruption.

12 MS. BARRETT: Sure.

13 I neglected to identify that Daquan McGee, who is  
14 Mr. McGee's younger brother. He also wrote a letter of  
15 support. I think the letters from Daquan and their sister,  
16 Melissa, are telling that they acknowledge his history, they  
17 acknowledge that he has been in a bad place, but they say he's  
18 in a good place now, and they want him to continue to be in  
19 that good place. They all believe that Mr. McGee has gone  
20 through a rehabilitative experience. And it would be difficult  
21 to ignore the feelings of all of these people and their  
22 willingness --

23 THE COURT: What am I to make of anything -- and maybe  
24 the answer is nothing -- of the fact that Mr. McGee was one of  
25 numerous defendants in this case who sent letters to the Court

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1 saying that they were overriding their counsel's advice and  
2 were asking that no pretrial motions be made and that the  
3 matter proceed more quickly to trial?

4 What struck me about those letters is they were all  
5 virtually word for word the same, suggesting that the  
6 defendants in this case are still in close coordination. Now,  
7 that may be perfectly legitimate, but it seems, perhaps, a  
8 little inconsistent with the notion that Mr. McGee has turned  
9 his life around and is on a different path.

10 MS. BARRETT: Your Honor, we have been over this in  
11 detail. It is my understanding that Mr. McGee wants to  
12 withdraw that letter, that he personally did not send it.

13 THE COURT: Well, if that's true, I think I need to  
14 inquire of him directly --

15 MS. BARRETT: Sure.

16 THE COURT: -- if you have no objection to it.

17 MS. BARRETT: I have no objection, your Honor.

18 THE COURT: All right. So, Mr McGee, you know the  
19 letter I'm talking about?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: You're withdrawing it?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: You say you didn't send it?

24 THE DEFENDANT: My fiancée and me had a discussion  
25 about said letter and we were under the impression at the time

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1 that it was one of a good decision, but I didn't have a visual  
2 look at it.

3 THE COURT: So, how had this letter come to be  
4 written?

5 THE DEFENDANT: It was given to her.

6 THE COURT: Given to?

7 THE DEFENDANT: My wife.

8 THE COURT: Who then passed it on to you?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you know who gave it to her?

11 THE DEFENDANT: No.

12 THE COURT: Well, she's here, yes? Let's ask her.

13 MS. BARRETT: Your Honor, I don't think it was ever  
14 passed to Mr. McGee, just to clarify that.

15 THE COURT: I'm sorry?

16 MS. BARRETT: I believe the letter was never passed to  
17 Mr. McGee. It was not mailed from --

18 THE COURT: Oh, I'm sorry, it was never --

19 THE DEFENDANT: It was never presented to me. I spoke  
20 to my wife about it. She felt comfortable, so I agreed for her  
21 to push it.

22 THE COURT: So maybe counsel can clarify this.

23 From your discussions, what is your understanding of  
24 exactly what occurred here?

25 MS. BARRETT: My understanding is that Ms. Ramirez

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1 discussed this letter, which she received from someone else.  
2 She discussed it with Mr. McGee. They were under a very  
3 different understanding as to the significance of this letter.  
4 Unfortunately, they didn't run it by me first, which would have  
5 been good. But they both have since conferred after both of  
6 them talking to me. I spent a good deal of time discussing  
7 this matter with them and they both agree that it was a  
8 mistake.

9 THE COURT: So, two different questions.

10 Back to you, Mr. McGee. First, are you withdrawing  
11 that letter and the request made in that letter?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Second, what is your understanding as to  
14 who that letter originally came from?

15 THE DEFENDANT: I believe it came from Mr. Smith.

16 THE COURT: Okay. All right. Go ahead, counsel.

17 MS. BARRETT: Thank you, your Honor. I'm glad we  
18 could clarify that matter.

19 So, your Honor, I guess what I was addressing the  
20 Court about was the support of the members of the family, the  
21 support of friends, the support of coworkers, the support of  
22 people who supervise him, including the probation officer and  
23 Mr. Miranda who supervised him at the Central Family Life  
24 Center. That program is called True 2 Life. It's my  
25 understanding that Mr. Miranda was hoping that Mr. McGee could

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1 take on a mentorship role as a person demonstrating that he has  
2 turned his life around.

3 Your Honor, with regard to the other -- it was one  
4 other thing that I really wanted to focus on, and it just flew  
5 out of my head.

6 THE COURT: Being considerably older than you are, I  
7 understand that completely.

8 MS. BARRETT: You flatter me, your Honor.

9 THE COURT: Anyway, why don't we go to the government  
10 and I'll give you a chance to respond in any event.

11 MS. BARRETT: Thank you.

12 MS. BHASKARAN: Thank you, your Honor.

13 I know your Honor now has some familiarity with the  
14 nature of the case and the allegations in the case, so I'll be  
15 brief in this description.

16 THE COURT: Well, forgive me for interrupting.

17 Do I understand that the government does not contend  
18 that Mr. McGee is a flight risk and is basing this solely on  
19 danger to the community?

20 MS. BHASKARAN: That's correct, your Honor.

21 THE COURT: There is a reference made to his prior  
22 record, but that's one of the reasons -- I'm sorry, I didn't  
23 see the pretrial --

24 THE DEPUTY CLERK: It's coming.

25 THE COURT: All right. Maybe the government

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1 presumably has the information.

2                   What is his prior record?

3                   MS. BHASKARAN: It's extensive, your Honor. I believe  
4 it demonstrates a continuous pattern of misconduct.

5                   So, to summarize it, his first criminal conviction was  
6 in February of 2008. That was a conviction for felony robbery.  
7 He received one to three years'.

8                   THE COURT: How old was he there?

9                   MS. BHASKARAN: I believe he was 18 years old.

10                  At the same time, on April 9 of that same year, 2008,  
11 he was also convicted of assault in the third degree. I  
12 believe that was a misdemeanor. Perhaps that was wrapped up  
13 with the other case, but he received a conditional discharge  
14 for that case. He was released from prison in October 2010.

15                  He's next arrested in April of 2012, so about a year  
16 and a half later. The plea in that case is to criminal  
17 possession of a weapon in the fourth degree. He received a  
18 short sentence there, I believe. There's also some bench  
19 warrants that were associated with that offense. The next  
20 arrest after that is October 16, 2013. He ultimately pleads  
21 guilty to robbery in the third degree. Again, that's his  
22 second felony robbery conviction. This time he gets a term of  
23 imprisonment of two to four years. There are bench warrants  
24 associated with that conviction as well. I believe then he's  
25 released from prison in June of 2016 and and his following

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1 arrest after that is in August of 2019. The plea there is to  
2 assault in the third degree. Again, there's notations of bench  
3 warrants there, and he received a conditional discharge.

4 The next arrest, most recent arrest, not including the  
5 arrest from the federal offense here, was from March 4, 2021,  
6 so a year and some change ago. There, he pleaded guilty to  
7 disorderly conduct. The arrest charges were for something more  
8 serious, criminal possession of a weapon, but, obviously, we  
9 would focus here on the plea, which was just disorderly  
10 conduct.

11 THE COURT: Well, maybe I missed something.

12 Although, there were those very serious robbery  
13 charges, do I understand, if I followed you correctly, that the  
14 only felony pleas or convictions since 2013 were one for which  
15 you received a conditional discharge and one that was for  
16 disorderly conduct?

17 MS. BHASKARAN: That's correct. So the last felony  
18 conviction was from -- he was arrested for that offense on  
19 October 16 of 2013.

20 THE COURT: Well, obviously, that's a serious record.

21 Why isn't that at least arguably consistent with the  
22 defense argument that is independently supported by the various  
23 things they've submitted that he has basically turned his life  
24 around, unless we look at the events that he's charged with  
25 now, which we're going to get to in a minute?

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1           But my point is not to minimize those two subsequent  
2 matters, but they do not seem at the same level of his earlier  
3 misconduct.

4           MS. BHASKARAN: I agree, your Honor. There's been  
5 some diminution in the degree of his criminal convictions as  
6 he's gotten older. But, again, I think these prior criminal  
7 convictions are very serious. The fact that he's continued to  
8 have arrests for conduct that is violent in nature should be  
9 troubling. The fact of the matter is that --

10          THE COURT: Well, do we know much about the facts of  
11 the disorderly conduct?

12          MS. BHASKARAN: I don't, your Honor, other than I know  
13 that the arrest charges included criminal possession of a  
14 weapon. And for the charge before that, the August 29 arrest,  
15 the plea there was for assault in the third degree.

16          THE COURT: Okay. Now, he is listed in the  
17 indictment, if I recall correctly, as number three of the  
18 various defendants. I assume the indictment basically tracks  
19 the government's view of approximate culpability, yes?

20          MS. BHASKARAN: I think that's right, your Honor.

21          THE COURT: So the defense says in their submission,  
22 for which I am very grateful, that he is not alleged to have  
23 been present for or participated in acts or threats of violence  
24 in terms of the pending indictment; is that correct?

25          MS. BHASKARAN: Yes, your Honor. It is difficult to

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1 pinpoint each and every participant in the numerous acts of  
2 violence that occurred in this case. There are numerous acts  
3 of violence. Victims could not always identify their  
4 assailants because these events happened very quickly. Someone  
5 runs up to them, sometimes multiple people run up to them and  
6 they are sucker punched to the ground. And all of these  
7 assaults are unprovoked. And there are insurance investors  
8 going to homeowners --

9 THE COURT: Well, I don't mean to minimize the overall  
10 allegations and the indications on the face of the papers that  
11 they involve both violence and threats of violence of a very  
12 serious nature, but what I'm trying to focus in on is  
13 Mr. McGee's involvement.

14 So, what led the government to place him as number  
15 three in the indictment hierarchy?

16 MS. BHASKARAN: Your Honor, so our investigation  
17 included numerous interviews. It also included wire taps on  
18 two of his codefendant's phones, Mr. Jatielk Smith and Sequan  
19 Jackson. We also recovered a significant amount of evidence  
20 from various other phone extractions. Mr. McGee was  
21 intercepted on numerous occasions on the Title 3 where it's  
22 very clear that he is fully aware of the tactics that this  
23 enterprise used, including the use of this extortion of  
24 rotations systems where companies that wanted to stay in the  
25 industry could only do so if they made these extortion payments

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1 to First Response. It is amply clear from those interceptions  
2 that he's very much a part of administering that rotation  
3 system.

4 THE COURT: Remind me of the event you're referring to  
5 now, such as, the evidence from the wire tap relates to what  
6 period of time?

7 MS. BHASKARAN: This would be from 2020. I think we  
8 started from October 2020 from June of 2022.

9 THE COURT: Okay.

10 MS. BHASKARAN: In addition, we have a chat where  
11 Mr. McGee and several codefendants are discussing a situation  
12 where a competitor was trying to take business away from First  
13 Response. Mr. Smith, Jatielk Smith -- there's two Smith  
14 defendants in this case -- instructs Mr. McGee to go pull up on  
15 him and show some authority.

16 Later, Jatielk Smith says that someone should go slap  
17 the competitor. McGee's response to the comment about slapping  
18 is, "It's whatever you want done." And I think there, there's  
19 a fair inference that can be drawn that he understands the  
20 violence that is being used by the enterprise to control the  
21 industry and he's fully supportive of the violence that's being  
22 used.

23 The only other point that I'll note, your Honor, at  
24 least at this juncture, unless there's further questions, is  
25 that Mr. McGee is, from what I understand, a self-professed

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1 member of the Bloods gang, which we all know is a very violent  
2 street gang. Many members of the enterprise that were charged  
3 were also members of the Bloods. And I think that fact is  
4 important for the Court to consider in assessing whether there  
5 are any conditions or combination of conditions that could  
6 address the danger that they possessed.

7 But from the government's perspective, what we think  
8 is a very significant criminal history, his gang membership,  
9 and his participation in this offense which occurred while he  
10 was on probation suggests to us that there aren't any  
11 conditions that would reasonably protect against the danger  
12 that he possesses.

13 THE COURT: All right. Thank you very much. Let's go  
14 back to defense counsel.

15 MS. BARRETT: Well, your Honor, what I heard the  
16 government saying was it's difficult to pinpoint what  
17 Mr. McGee's role was in this so-called administration of  
18 violent acts. Difficult to pinpoint sounds to me like there  
19 there's no proof that he was involved in physical violence  
20 against anybody.

21 THE COURT: Well, that may well be true based on what  
22 I've heard so far. But on the other hand, they indicate that  
23 he had knowledge and was, at a minimum, fully on board in the  
24 use of violence.

25 MS. BARRETT: Well, let me put it this way. We're

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1 here with the presumption of innocence. That's the  
2 government's interpretation of a conversation in which we had  
3 no access and no ability to explain or determine context, what  
4 was the mood of the individuals engaged in this conversation.  
5 All we have is an allegation of some words on the part of Smith  
6 to Mr. McGee and Mr. McGee saying something that sounds to me  
7 particularly gratuitous.

8 So, what I'm saying here, Judge, is --

9 THE COURT: I don't think it has to do with the  
10 presumption of innocence. Because while I hold that very dear  
11 to my heart, the immediate question is a factual one, and it's  
12 one where the standard is essentially preponderance. And it  
13 is, in this particular case, whether him making that statement  
14 that was just quoted, it was more likely than not that he was  
15 approving the use of violence.

16 Now, you are quite right that you haven't had the  
17 extensive discovery that the government is in the course of  
18 providing that may shed further light on this. That, of  
19 course, was one of the reasons why I think Mr. McGee has  
20 exercised excellent judgment in withdrawing his letter.  
21 Otherwise, if I were to follow the path suggested in those  
22 letters, we might have a trial in this matter without defense  
23 counsel having more than the most trivial idea of what the  
24 government's proof was, whereas under the present schedule, the  
25 government is required to produce extensive discovery that

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1 defense counsel would then have a chance to look at.

2           But my point is this: As in every bail hearing, it is  
3 always subject to further consideration if you discover new  
4 information later that casts a different light. But I, like  
5 every judge in this point, have to make a determination as to  
6 what I think is more likely than not about any given factual  
7 assertion that is being made. And it does sound to me that  
8 it's more likely than not, on the limited amount of information  
9 that I have, that it was acquiescence in a proposed act of  
10 violence.

11           Why shouldn't I draw that conclusion?

12           MS. BARRETT: Because that conclusion was the  
13 conclusion that -- if you take the context there and the words  
14 without putting it into the context of an entire conversation,  
15 it's not fair to make that determination and to adopt the  
16 government's version of what that conversation was about.  
17 Words are words. Very different.

18           THE COURT: Well, let me ask a broader question.

19           MS. BARRETT: Sure.

20           THE COURT: And I think this is really one of the  
21 issues that is at the heart of this application.

22           By the way, I commend the defense for their very  
23 excellent presentation, both in writing and now orally in this  
24 bail application. But having had the pleasure and privilege of  
25 Ms. Barrett's presentations before, I wasn't surprised that it

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1 was a terrific job.

2 MS. BARRETT: Thank you, your Honor.

3 THE COURT: But here is what I think is the problem is  
4 that you face. It's, if you will, two inconsistent pictures.  
5 We have, on the one hand, your version of what's happened to  
6 Mr. McGee supported not just by family members, although, they  
7 are always important to the Court, but by independent persons  
8 as well, saying this guy not only has turned his life around,  
9 he's really become a very helpful participant in the various  
10 programs he's involved in and so forth, and he has several  
11 employment prospects. What good will it be to lock him up for  
12 X number of months when he has shown his ability to do things  
13 the right way?

14 On the other hand, we have the government saying,  
15 forget about the prior criminal history. Although, that's not  
16 irrelevant, obviously. But what we have the government saying  
17 is based on their investigation of the facts in this very case,  
18 that within a very recent couple of years or so, he was  
19 directly involved in a very, very serious racketeering  
20 conspiracy. So that's, I think, the clash that needs to be  
21 resolved.

22 MS. BARRETT: I think your Honor is capable of  
23 resolving that clash because I am very familiar with the Court  
24 as well. But I would also point out that it has to be if your  
25 inclination was the decision must be release.

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1                 THE COURT: I understand that, and I agree with that  
2 completely. But usually, the facts are not 50/50, they're  
3 usually at least 51/49.

4                 MS. BARRETT: Right.

5                 THE COURT: One of the things that trouble me --  
6 that's why I asked the question earlier -- is if he really had  
7 turned his life around in the way that you're suggesting, why  
8 was he directly, or as it seems, indirectly participating in  
9 this letter campaign that was presented to the Court, which  
10 suggests a degree of continuing association with the people,  
11 many of whom the evidence is very strong.

12                MS. BARRETT: Your Honor, I think -- and I'm not going  
13 to ask anybody to back up my thoughts here -- but my intuition  
14 or inference based on what I know is that there may have been  
15 pressure applied to Ms. Ramirez in a way that led her to  
16 believe that it would be in Mr. McGee's best interest to go  
17 along with this letter writing campaign.

18                THE COURT: So, now, if I do grant bail, in these  
19 kinds of situations, one of the normal conditions is that the  
20 defendant have no further contact with anyone involved. And I  
21 would interpret that to mean not just direct contact, but  
22 indirect contact, other than through counsel, of course.

23                So if, for example, I received another letter of that  
24 nature from someone in his family who had shown it to Mr. McGee  
25 and then sent it to the Court -- I'm making this up as a

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1 hypothesis -- would it not be proper at that point for me to  
2 feel that he had violated the conditions of release and revoke  
3 bail?

4 MS. BARRETT: Absolutely. There is no question about  
5 that.

6 I think that Mr. McGee and Ms. Ramirez fully  
7 understand the Court's position with regard to this, and they  
8 regret deeply that they became involved with this without  
9 discussing it with counsel. They understand that there's  
10 absolutely no contact with anyone associated with the other  
11 defendants in this case.

12 THE COURT: Now, if you know and if you want to tell  
13 me, is he still a member of the Bloods?

14 MS. BARRETT: Your Honor, there's a thing about gangs  
15 that I'm sure the Court is aware, it's that you can be  
16 categorized in that fashion unless you actually take some sort  
17 of affirmative action that's required. You don't -- it's sort  
18 of like once a Blood, or once a whatever, Trinitarios, or once  
19 this, once that, you're always that, no matter what. He could  
20 be 100 and they could still be saying that about him.

21 So, I can tell you that he is not engaged with any  
22 kind of criminal activity with regard to their gang.

23 THE COURT: So if I were to release him, again, one of  
24 the conditions, it seems to me, would have to be that he not  
25 associate with anyone that he knows is a member of the Bloods.

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1 MS. BARRETT: Certainly.

2 THE COURT: That would cover quite a lot of people, I  
3 suspect, in his particular venue.

4 MS. BARRETT: Yeah, well, I believe that if he were  
5 released, he would like to reside with Ms. Ramirez in Newark.  
6 So he would be away from the area where he, as a very young  
7 man -- and by the way, he was 17 for that first arrest -- and  
8 as a very young man became involved because of where he was,  
9 because of his family's economic circumstances, the fact of  
10 growing up in a single-parent home. All of those things, we  
11 know, expose young men to very negative influences. He has  
12 overcome that. He is working very hard to take care of his  
13 family. He takes care of his children, the two youngest  
14 children every weekend. He obviously is a mentor and support  
15 to Jaelynn Johnson, who is here. His family is willing to  
16 support him. Everybody is willing to stand by. Everybody  
17 understands that one step over the line would mean  
18 incarceration again, should the Court grant his release. But I  
19 do want to emphasize that.

20 I know the Court knows this, because I know the Court  
21 sat through a capital case and has heard experts testify about  
22 aging out and that process of basically growing up and how that  
23 doesn't really happen when you're automatically 18 years old.  
24 It takes a while for that brain to start making good decisions  
25 and functioning well from an executive functioning point of

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1 view.

2 THE COURT: Give me, again, the bail conditions that  
3 you would propose.

4 MS. BARRETT: Proposing electronic monitoring with  
5 home detention so that he could work, and that he would be  
6 residing with Ms. Ramirez on South 11 Street in Newark.

7 By the way, your Honor, I also have -- and I'll just  
8 tell you about it and I won't necessarily burden the Court with  
9 more paperwork, but Ms. Ramirez canvassed her neighborhood and  
10 had her neighbors sign a letter saying that they welcome  
11 Mr. McGee's return to that community in Newark. He would be  
12 away from all of these people. Also, there are six individuals  
13 who are willing to sign a bond and --

14 THE COURT: How much of a bond are you proposing?

15 MS. BARRETT: I would think 250,000 would be an  
16 appropriate bond.

17 THE COURT: Cosigned by?

18 MS. BARRETT: By Ms. Ramirez. Jon Lopez would be  
19 signing it. Two of the individuals are managers at Duane Reade  
20 where Ms. Ramirez is employed, and they've come to know  
21 Mr. McGee through that. Mr. Marrero. There's one who is  
22 employed in Walmart in Newburgh and is a salesclerk.

23 Obviously, these are not people who are wealthy, but  
24 as I pointed out in the letter, they understand the  
25 significance of making this kind of sacrifice. And the moral

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1 suasion involved is really important. I think it's important  
2 for Mr. McGee.

3 He hasn't received a copy of the letters because mail  
4 is what it is, but I have read some of the letters to him this  
5 afternoon and he was brought to tears with gratitude for what  
6 people are willing to sacrifice for him.

7 THE COURT: All right. Let me go back to the  
8 government. First, anything you'd like to say, and then, also,  
9 I have a question for you.

10 If I were to release Mr. McGee on bail, are there any  
11 other conditions that you would propose?

12 MS. BHASKARAN: Yes, your Honor.

13 I believe the other defendants in this case who have  
14 been released have a condition to have no contact with certain  
15 industry participants. I don't have the precise details of how  
16 we put that in effect, but I believe we provided pretrial with  
17 a list of certain companies in the industry that the defendant  
18 would not be able to contact.

19 THE COURT: Okay. That's important.

20 Well, I am leaning that way. So if there's something  
21 else you want to say that you think might change my mind, now  
22 is the time to say it.

23 MS. BHASKARAN: I don't know that I have any  
24 additional points, your Honor, other than to say that it is the  
25 government's view that detention is appropriate here and that

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1 is very much driven by the criminal history, the prior gang  
2 membership, and his acquiescence to violence and extortion in  
3 this case.

4 THE COURT: Those are all important points and well  
5 stated.

6 This is, as you might imagine, a somewhat close call.  
7 Although, I don't think it's determined by presumption, I am,  
8 of course, fully aware and devoted to the provision of our  
9 Constitution that favors the release on bail. But to my mind,  
10 it always has to be decided on an as complete and careful  
11 analysis of the specific facts as the Court can look at at this  
12 still relatively early stage in the litigation.

13 The government does not contend that this defendant is  
14 a flight risk, and it seems clear from the support he's  
15 received that that's very unlikely. Although, I will still  
16 impose, when we get to the provisions, a bond, because I think  
17 that has its own moral suasion of a more general sort.

18 I am struck by the fact that Mr. McGee, despite his  
19 participation in the past in serious criminal activity, does  
20 and has given signs in maturing in just the way defense counsel  
21 mentioned. It's always difficult for someone who has joined a  
22 gang at an early age and looked to the gang for leadership and  
23 support to suddenly come to the realization that that is the  
24 path to ruin, to a lifetime of incarceration at one point or  
25 another, to the disregard for the family and other people who

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1 place such great faith in him. That realization comes slower  
2 to some and faster to others, but I do think defense counsel  
3 has made a persuasive showing that Mr. McGee is moving in that  
4 direction in meaningful ways. And it is impressive that that  
5 position is supported not just by family, but by prospective  
6 employers, by participants and programs in which he's played a  
7 role and so forth. This is as full of support as one could  
8 imagine in these circumstances.

9           I'm also persuaded that the evidence so far presented  
10 to the Court of Mr. McGee's own involvement in violence or even  
11 acquiescence in the violence of others is modest at best  
12 compared with some other defendants in this case. It is quite  
13 modest. So it seems to me that there is a set of conditions  
14 that reasonably could warrant Mr. McGee's release and assure  
15 against further danger to the community.

16           Although, I want to emphasize to Mr. McGee that even  
17 the slightest violations of the conditions I'm about to set  
18 would almost certainly change my mind and result in your bail  
19 being revoked. But I'm sure you understand that; yes?

20           THE DEFENDANT: Yes, your Honor.

21           THE COURT: So the first condition is that the  
22 defendant will be subject to electronic monitoring as  
23 determined by the pretrial services, and that he will reside,  
24 at all times, at Ms. Ramirez's residence in Newark, as I  
25 understand it, except when he receives prior pretrial approval.

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1 Now, this could be for employment, for example, it could be for  
2 medical purposes, it could be for meeting with counsel, but it  
3 always requires prior approval of pretrial services. If I ever  
4 hear, for example, oh, gee, it was an emergency, I just had to  
5 leave, so I didn't have time to call pretrial services, or, I  
6 couldn't reach pretrial services, forget it; I would revoke  
7 bail. So any release requires pretrial services' prior  
8 approval.

9           Third, the defendant is restricted to the District of  
10 New Jersey and the Southern District of New York. Fourth, the  
11 defendant will not associate with anyone who he knows to be a  
12 member of the Bloods, and/or with any member associated with  
13 any of the defendants in this case, and/or with anyone who he  
14 knows has been previously convicted or was charged with pending  
15 crimes. Mr. McGee has so many good people who support him that  
16 he doesn't need to worry about being lonely.

17           Fifth, he will not associate with companies, and I'll  
18 adopt by reference and we'll get the exact wording from the  
19 previous bail conditions regarding that provision. I'll leave  
20 that for counsel for both sides to work out. Finally, he must  
21 provide a \$300,000 recognizance bond cosigned by at least four  
22 financially responsible people. And the government will make  
23 the initial determination as to whether that has been met.

24           Now, it follows from that last condition that he will  
25 not be released today because we'll have to put all these

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1 arrangements in place. But if there are any difficulties  
2 expeditiously putting all of this into place, counsel should  
3 jointly call the Court and we'll make sure this gets expedited  
4 so that Mr. McGee shall be released in the next few days, even  
5 though he can't be released today.

6 All right. Is there anything else anyone else wants  
7 to raise at this time?

8 MS. BHASKARAN: No, your Honor.

9 THE COURT: Defense?

10 MS. BARRETT: No, your Honor.

11 THE COURT: Very well.

12 (Adjourned)

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